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APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/767,647	10/767,647 01/29/2004 Robert S. Taylor		2001-IP-003234U1P2 5394			
7:	590 12/08/2006	•	EXAMINER			
Robert A. Kent Halliburton Energy Services			BATES, ZA	BATES, ZAKIYA W		
2600 South 2nd Street			ART UNIT	PAPER NUMBER		

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Taylor   Carlon   Carlo			Application	n No.	Applicant(s)	·			
Takiya W. Bates  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address →  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.136(a). In or event, however, may a reply be timely filed after \$ix. 69 inCMTRS from the mailing date of this communications of 37 CFR 1.136(a). In or event, however, may a reply be timely filed after \$ix. 69 inCMTRS from the mailing date of this communication.  Failuse to may be within the set or extended period for reply will, by shake to become ABANDED (58 U.S.C. § 1.53)  Any reply reply received by the Office later than three months after the mailing date of this communication. Provided the communication is become ABANDED (58 U.S.C. § 1.53)  Any reply reply received by the Office later than three months after the mailing date of this communication, even if simely filed, may reduce any send advantage and the communication is become ABANDED (58 U.S.C. § 1.53)  Any reply reply received by the Office later than three months after the mailing date of this communication, even if simely filed, may reduce any ended against the original property of the communication is provided by the Office and the provided and the original provided by the Office and the provided and the provided by the Office and the mailing date of this communication.  1)	Office Action Summary		10/767,64	.7	TAYLOR ET AL.				
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.39(a). In no event, however, may a neply be timely field after 51x (8) MONTHS from the mailing date of this communication.  If NO period for reply is specified above, the meaning date of this communication.  Failune to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S. € 1.35). Since the provision of the provision of the communication, even if timely field, may reduce any extend patient term adjustment. See 37 CFR 1.704(b)  Status  1) □ Responsive to communication(s) filled on 21 September 2006.  2a) □ This action is FINAL.  2b) □ This action is non-final.  3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 1-83 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) □ Claim(s) 1-83 is/are rejected.  7) □ Claim(s) is/are allowed.  6) □ Claim(s) is/are objected to.  8) □ Claim(s) is/are objected to.  8) □ Claim(s) is/are objected to by the Examiner.  10) □ The drawing(s) filled on is/are: a) □ accepted or b) □ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.121(d).  11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) □ All b) □ Some * c) □ None of:  1□ □ Certified copies of the priority documents have been received in Application No □ Copies of the certified			Examiner		Art Unit				
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application from the International Bureau (PCT Rule 17.2(a)).									
		3. Copies of the certified copies of the pr	iority docume	nts have been receive	ed in this National S	tage			
* See the attached detailed Office action for a list of the certified copies not received.		application from the International Bure	au (PCT Rule	∍ 17.2(a)).					
	* S	ee the attached detailed Office action for a li	st of the certif	ied copies not receive	ed.				
Attachment(s)	Attachment	t(s)							
1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)									
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application	· <del></del>								
Paper No(s)/Mail Date 6) Other:				· =					

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### **DETAILED ACTION**

## Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- 2. Claims 1-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor et al. (US 2003/0228985) (cited by applicant).

The applied reference has a common assignee and two inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

US 2003/0228985 discloses, with respect to all the claims, a method of treating a subterranean formation comprising: providing a gelled liquid hydrocarbon treatment fluid comprising a liquid hydrocarbon and a gelling agent that comprises a polyvalent metal salt of an organophosphonic acid ester or a polyvalent metal salt of an

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organophosphinic acid, and treating the subterranean formation with the gelled liquid hydrocarbon treatment fluid. See the entire document, especially paragraphs [0008-0021] and [0023-0057], claims 1-41, and examples 1-12.

3. Claims 1-83 are rejected under 35 U.S.C. 102(a) as being anticipated by EP 1236863 (cited by applicant).

EP 1236863 discloses, with respect to all the claims, a method of treating a subterranean formation comprising: providing a gelled liquid hydrocarbon treatment fluid comprising a liquid hydrocarbon and a gelling agent that comprises a polyvalent metal salt of an organophosphonic acid ester or a polyvalent metal salt of an organophosphinic acid, and treating the subterranean formation with the gelled liquid hydrocarbon treatment fluid. See the entire document, especially paragraphs [0001-0035], claims 1-14, and examples 1-10.

#### Response to Arguments

4. Applicant's arguments filed 9/21/06 have been fully considered but they are not persuasive. Applicant argues that since he claims priority back to February 23, 2001, that neither of the cited references constitute prior art. When, in fact, the instant application is a continuation-in-part of the cited applications and the subject matter of the instant invention is not supported within either application. The subject matter including providing "a gelled liquid hydrocarbon...gelling agent that comprises a polyvalent metal salt of an organophosphonic acid ester or a polyvalent metal salt of an organophosphinic acid," which is the crux of the invention, is new material and is given

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the benefit of the filing date of the instant application (1/28/2004). Therefore, the cited references constitute prior art in this application because the new material is not supported by the application with the 2/23/2001 filing date.

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#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zakiya W. Bates whose telephone number is (571) 272-7039. The examiner can normally be reached on Monday-Friday, 8:30 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

> Zakiva W. Bates **Primary Examiner** Art Unit 3676

December 6, 2006